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THE PROCTER & GAMBLE COMPANY  
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EXAMINER
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DULKO, MARTA S

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* TINA BROWN, GREGORY HUGH DEAN, and  
UWE SCHNEIDER<sup>1</sup>

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Appeal 2016-004229  
Application 13/435,503  
Technology Center 1700

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Before BRADLEY R. GARRIS, PETER F. KRATZ, and  
JENNIFER R. GUPTA, *Administrative Patent Judges*.

GARRIS, *Administrative Patent Judge*.

DECISION ON APPEAL

Pursuant to 35 U.S.C. § 134, Appellants appeal from the Examiner's rejection under 35 U.S.C. § 103(a) of claims 1–7 and 9–16 as unpatentable over Van Eperen (US 6,235,137 B1 issued May 22, 2001) in view of Buell (US 4,081,301 issued Mar. 28, 1978) and Jenquin (US 7,861,756 B2 issued Jan. 4, 2011). We have jurisdiction under 35 U.S.C. § 6.

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<sup>1</sup> Procter & Gamble Company is identified as the real party in interest.  
Br. 1.

We AFFIRM.

Appellants claim a method for assembling disposable absorbent articles comprising advancing a continuous top sheet substrate, advancing elastic strands 77, 78 in a stretched state while intermittently bonding the strands between layers of a leg cuff substrate to form an elastic laminate 403 having intermittently spaced bonded regions 505 and non-bonded regions 503, and severing the elastic strands in the non-bonded regions no more than once to form leg gasketing assemblies 70a having elastic regions 505a intermittently spaced between deactivated regions 503a (independent claim 6, Figs. 6B and 6C; *see also* remaining independent claims 1 and 13).

A copy of representative claim 6, taken from the Claims Appendix of the Appeal Brief, appears below.

6. A method for assembling disposable absorbent articles, the method comprising the steps of:

advancing a continuous topsheet substrate having a first surface and an opposing second surface in a machine direction;

advancing elastic strands in the machine direction in a stretched state; intermittently bonding the elastic strands in the stretched state between a first substrate layer and a second substrate layer to form an elastic laminate; the elastic laminate including bonded regions and non-bonded regions intermittently spaced along the machine direction, wherein the elastic strands are bonded to the first substrate layer in the bonded regions, and wherein the elastic strands are not bonded to the first substrate layer and the second substrate layer in the non-bonded regions;

severing the elastic strands in the non-bonded regions of the elastic laminate such that severed ends of the elastic strands retract to the bonded regions of the elastic laminate and wherein the elastic strands are severed no more than once in the non-bonded regions to form a continuous length of leg gasketing assemblies having elastic regions intermittently spaced along the machine direction between deactivated regions; and

bonding the first substrate layer with the continuous topsheet substrate, wherein the step of severing the elastic strands is performed before the step of bonding the first substrate layer with the continuous topsheet substrate.

Appellants present the same arguments regarding independent claims 1, 6, and 13 (Br. 4–14) of which claim 6 is representative. Appellants have not presented separate arguments specifically directed to the dependent claims under rejection (*id.*). As a consequence, the dependent claims will stand or fall with their parent independent claims as represented by claim 6.

We sustain the Examiner’s rejection for the reasons expressed in the Final Action, the Answer, and below.

In rejecting representative claim 6, the Examiner finds that Van Eperen discloses the claimed method except for bonding the elastic strands intermittently so as to form bonded and non-bonded regions and severing the elastic strands in the non-bonded regions no more than once (Final Action 4–5). The Examiner concludes that it would have been obvious to bond Van Eperen’s elastic strands intermittently rather than continuously to form bonded and non-bonded regions in view of Buell and to sever the strands in the non-bonded regions no more than once in view of Jenquin (*id.* at 5–6 (citing, e.g., Buell col. 5, ll. 45–63 and Jenquin col. 5, ll. 20–32)).

Appellants argue that the column 5 disclosure of Buell cited by the Examiner “involves additional process and material elements . . . and as such, does not support the Examiner’s conclusion . . . that the method steps

of continuous adhesive application and intermittent adhesive application are equivalent” (Br. 9).

In response, the Examiner correctly finds that Buell discloses bonding elastic strands either intermittently (Buell col. 5, ll. 45–49) or continuously (*id.* at ll. 58–63) (Ans. 2). This disclosure supports the Examiner’s conclusion that it would have been obvious to bond the elastic strands of Van Eperen intermittently as taught by Buell rather than continuously as taught by Van Eperen as well as Buell. Appellants do not explain why this obviousness conclusion is undermined by their above quoted point that Buell’s column 5 disclosure “involves additional process and material elements” (Br. 9). On the other hand, the record before us reflects obviousness by evincing that the use of Buell’s intermittent bonding in Van Eperen’s method is nothing more than the predictable use of a prior art bonding technique according to its established function. *See KSR Int’l Co. v. Teleflex Inc.*, 550 U.S. 398, 417 (2007).

Regarding the Examiner’s proposed combination of Van Eperen and Jenquin, Appellants quote, for example, Van Eperen’s claim 1 method step of dividing “at least one first strand of material into a plurality of first strand segments” (Br. 10 (quoting Van Eperen’s claim 1 with emphasis added)) and argue “modifying the process of Van Eperen with Jenquin to arrive at the method recited in claim 6 would impermissibly change the principal of operation of the invention of Van Eperen” (*id.*).

This argument is not persuasive because Appellants provide no evidence or explanation regarding how the combination of Van Eperen and

Jenquin would impermissibly change the principal of operation of Van Eperen's method wherein a strand is divided into a plurality of strand segments. Such evidence or explanation is particularly necessary because, like Van Eperen's claim 1 method, Appellants' claim 6 method divides or severs an individual strand into a plurality of strand segments (i.e., two strand segments).

For the reasons stated above and given by the Examiner, Appellants fail to show harmful error in the § 103 rejection of claims 1–7 and 9–16.

The decision of the Examiner is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a).

AFFIRMED